

REMARKS

Claims 75 and 83 are amended. Claims 1-74 and 76-77 have been canceled by previous amendment. New claims 84 and 85 are added. After entry of the present amendments, claims 75 and 78-85 remain in the application for further prosecution.

Claim Rejections – 35 U.S.C. § 103

In response to the Final Office Action dated January 23, 2006, Applicants pointed out, *inter alia*, that the Raven-Sizer combination fails because Sizer is a completely passive device that cannot receive anything from a passerby nor can a passerby interact with Sizer's device. Page 4 of that Office Action asserted "Sizer discloses inviting the passerby to interact with the machine." Applicants pointed out their firm disagreement with this assertion. In the present office action, the wording has been changed slightly to assert that Sizer allows "the device to automatically interact with the person within proximity of the machine using personalized information contained on the data unit." Office Action at 3. Unfortunately, the Office Action did not address any of Applicants' detailed remarks in this respect, dismissing these remarks are "moot" in view of a new ground of rejection that is based on the same references (Raven and Sizer). One new reference is added, Weston, based on an element that is not related to these remarks (i.e., that the portable data unit includes a transceiver). Applicants can only assume that the Examiner continues to hold the view that Sizer discloses inviting the passerby to interact with the machine. Accordingly, Applicants traverse these rejections for the same detailed reasons advanced in prior papers.

The addition of Weston (US 2001/0034257) does not overcome the deficiencies of the Raven-Sizer combination. Weston does not teach or suggest a device that invites a passerby to interact in some way with that device. In claim 75, the interaction involves some form of input received by the gaming machine from the passerby. In claim 83, the interaction involves an acceptance of an invitation to play the wagering game by placing a wager on the gaming machine. The passive audio/visual marketing device in Sizer is purely a passive device that broadcasts an audio or video signal but does not accept any input from a passerby upon detecting the passerby's presence. A fundamental problem with Sizer, as repeatedly urged by Applicants in prior papers, is that Sizer is directed to a fundamentally different marketing system than that employed in a casino environment with gaming machines. The passive marketing device of Sizer simply does not permit

interaction by a passerby in any way and is also not analogous art for the reasons explained in prior papers. For at least these reasons, there would be no motivation to modify Sizer to include a wireless transceiver of Weston, because Sizer's marketing device is passive (it does not permit passerby interaction nor does it receive any input from a passerby) and operates in broadcast mode only.

The Office Action also refers to limitations that are not present in the pending set of claims (e.g., using the portable data unit to access monetary information). These limitations are not pertinent to the pending set of claims.

In addition, the Office Action did not address Applicants' teaching away arguments pertaining to Raven. The Office Action simply avoids mentioning whether Raven discloses inviting the passerby to play the machine (compare with Office Action dated January 23, 2006, at 5). Raven discloses no such limitation, as explained in prior papers, because to do so would require advance knowledge of the passerby, which is not possible with Raven's system because it cannot know whether a player intends to play the machine until the player inserts his card into Raven's DMK unit 12.

For at least the foregoing reasons and the reasons expressed in Applicants' Remarks of May 22, 2006, Applicant respectfully submits that the present independent claims 75 and 83 and their respective dependent claims are patentable in view of the Raven-Sizer-Weston combination and are in condition for allowance.

Conclusion

It is believed that no additional fee is presently due; however, should any additional fees be required (except for payment of the issue fee), the Commissioner is authorized to deduct the fees from Jenkins & Gilchrist, P.C. Deposit Account No. 10-0447, Order No. 47079-00107USD2.

Respectfully submitted,

Date: November 6, 2006



Justin D. Swindells

Reg. No. 48,733

JENKENS & GILCHRIST, P.C.

225 West Washington Street, Suite 2600

Chicago, Illinois 60606-3418

(312) 425-3900 (telephone)

(312) 425-3909 (telecopy)

ATTORNEYS FOR APPLICANTS